

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

Crim. No. 4:91-72(2) (PAM)

v.

ORDER

Steven W. Arnold,

Defendant.

This matter is before the Court on Defendant Steven W. Arnold's Motion to Reduce Sentence Under 18 U.S.C. § 3582(c)(2). For the reasons that follow, the Court denies the Motion.

In December 1991, this Court sentenced Arnold to 360 months in prison after he was found guilty of cocaine base-related offenses. The Court determined that Arnold was a career offender and thus that § 4B1.1 of the sentencing guidelines dictated a total offense level of 37, which with Arnold's criminal history category of VI resulted in a guidelines range of 360 months to life. If Arnold had not been a career offender, the Court would have applied the guidelines range from § 2D1.1 which would have resulted in an offense level of 28.

In his Motion, Arnold argues that the recent amendments to § 2D1.1 mandate that the Court lower his sentencing range by two levels, to a level 35. He asks the Court to resentence him to the low end of the resulting guidelines range, 292 to 365 months.

As the Government points out, however, the retroactive amendments to § 2D1.1 do not apply to individuals sentenced under sections of the sentencing guidelines other than

§ 2D1.1. Here, Arnold was sentenced under § 4B1.1, not 2D1.1. His case is virtually indistinguishable from United States v. Tingle, 524 F.3d 839 (8th Cir. 2008). In that case, the Court of Appeals concluded that the Sentencing Commission did not lower the guidelines range for those sentenced as career offenders, and thus that career offenders were not eligible for the retroactive application of the amendments to § 2D1.1. The Court is bound by the result in Tingle and must therefore deny Arnold's Motion.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Defendant's Motion to Reduce Sentence Under 18 U.S.C. § 3582(c)(2) (Docket Nos. 91, 99) is **DENIED**.

Dated: Monday, November 24, 2008

s/ *Paul A. Magnuson*
Paul A. Magnuson
United States District Court Judge